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6 **BEFORE THE**  
7 **CALIFORNIA BOARD OF ACCOUNTANCY**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2010-34

11 **ALAN DOUGLAS SHATTUCK**  
12 **1380 Lead Hills Blvd., Suite 106**  
13 **Roseville, California 95661**  
14 **Certified Public Accountant Certificate No.**  
15 **13898**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

Respondent.

16  
17 **FINDINGS OF FACT**

18 1. On or about November 9, 2010, Complainant Patti Bowers, in her official capacity as  
19 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs,  
20 filed Accusation No. AC-2010-34 against Alan Douglas Shattuck (Respondent) before the  
21 California Board of Accountancy. (Accusation attached as Exhibit A.)

22 2. On or about June 15, 1968, the California Board of Accountancy (Board) issued  
23 Certified Public Accountant Certificate No. 13898 to Respondent. The Certified Public  
24 Accountant Certificate was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on April 30, 2012, unless renewed.

26 3. On or about November 30, 2010, Respondent was served by Certified Mail and First  
27 Class Mail with copies of the Accusation No. AC-2010-34, Statement to Respondent, Notice of  
28 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,

1 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and  
2 Professions Code section 136 and/or agency specific statute or regulation, is required to be  
3 reported and maintained with the Board, which was and is: 1380 Lead Hills Blvd., Suite 106  
4 Roseville, California 95661.

5 4. Service of the Accusation was effective as a matter of law under the provisions of  
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
7 124. None of the documents described in Paragraph 3 were returned by the United States Postal  
8 Service.

9 5. Government Code section 11506 states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
11 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
12 of the accusation not expressly admitted. Failure to file a notice of defense shall  
constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
may nevertheless grant a hearing.

13 6. Respondent failed to file a Notice of Defense within 15 days after service upon him  
14 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
15 AC-2010-34.

16 7. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at the  
18 hearing, the agency may take action based upon the respondent's express admissions  
19 or upon other evidence and affidavits may be used as evidence without any notice to  
respondent.

20 8. Pursuant to its authority under Government Code section 11520, the Board finds  
21 Respondent is in default. The Board will take action without further hearing and, based on the  
22 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
23 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
24 therein on file at the Board's offices regarding the allegations contained in Accusation No. AC-  
25 2010-34, finds that the charges and allegations in Accusation No. AC-2010-34, are separately and  
26 severally, found to be true and correct by clear and convincing evidence.

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1           9.     Taking official notice of its own internal records, pursuant to Business and  
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for investigation  
3 and enforcement is \$6,913.96 as of December 21, 2010.

4                                 DETERMINATION OF ISSUES

5           1.     Based on the foregoing findings of fact, Respondent Alan Douglas Shattuck has  
6 subjected his Certified Public Accountant Certificate No. 13898 to discipline.

7           2.     The agency has jurisdiction to adjudicate this case by default.

8           3.     The California Board of Accountancy is authorized to revoke Respondent's Certified  
9 Public Accountant Certificate based upon the following violations alleged in the Accusation  
10 which are supported by the evidence contained in the Default Decision Investigatory Evidence  
11 Packet in this case:

12           a.     Unprofessional conduct by Respondent's breach of fiduciary duty in violation of  
13 Probate Code sections 16062 and 16063 by failure to provide a Trust beneficiary with an  
14 accounting for a Trust for which Respondent was Trustee;

15           b.     Unprofessional conduct by Respondent's failure to respond to Board requests for files  
16 and other information, and failure to respond and produce documents in response to a Board  
17 Investigative Subpoena in violation of section 52, subdivisions (a), (b) and (c), title 16, California  
18 Code of Regulations; and

19           c.     Unprofessional conduct by Respondent's failure to comply with a Court Order to  
20 provide an accounting to a Trust beneficiary, a violation of Business & Professions Code section  
21 5100.

22                                 ORDER

23           IT IS SO ORDERED that Certified Public Accountant Certificate No. 13898, heretofore  
24 issued to Respondent Alan Douglas Shattuck, is revoked.

25           Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
26 written motion requesting that the Decision be vacated and stating the grounds relied on within  
27 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
28 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

1 This Decision shall become effective on February 4, 2011.

2 It is so ORDERED February 4, 2011

3   
4 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
5 DEPARTMENT OF CONSUMER AFFAIRS

6 default decision\_LIC.rtf  
7 DOJ Matter ID:SA2010102654

8 Attachment:  
9 Exhibit A: Accusation  
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# Exhibit A

Accusation No. AC-2010-34

1 EDMUND G. BROWN JR.  
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2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
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Sacramento, CA 94244-2550  
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Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2010-34

12 **ALAN DOUGLAS SHATTUCK**  
1380 Lead Hills Blvd., Suite 106  
13 Roseville, California 95661

**A C C U S A T I O N**

14 **Certified Public Accountant Certificate No.**  
15 **13898**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

22 2. On or about June 15, 1968, the California Board of Accountancy issued Certified  
23 Public Accountant Certificate Number 13898 to Alan Douglas Shattuck (Respondent). The  
24 Certified Public Accountant Certificate was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on April 30, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the California Board of Accountancy ("Board")  
28 under the authority of the following sections of the Business and Professions Code ("Code").

1       4.     Section 5100 of the Code provides that, after notice and hearing, the Board "may  
2     revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing  
3     with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of  
4     that permit or certificate for unprofessional conduct that includes, but is not limited to,

5             ...

6             "(g) Willful violation of this chapter or any rule or regulation promulgated by the  
7     board under the authority granted under this chapter."

8             ...

9             "(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind."

10       5.     Section 5107, subdivision (a) of the Code states, in pertinent part, that the Board's  
11     Executive Officer may request the administrative law judge, as part of the proposed decision in a  
12     disciplinary proceeding, to direct any holder of a permit or certificate, found to have committed a  
13     violation or violations of this chapter to pay to the Board all reasonable costs of investigation and  
14     prosecution of the case, including, but not limited, to attorney's fees. The Board shall not recover  
15     costs incurred at the administrative hearing.

16       6.     Section 118, subdivision (b) of the Code, provides that the expiration of a license  
17     shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
18     within which the license may be renewed, restored, reissued or reinstated.

19       7.     California Probate Code section 16061 states, in pertinent part, that "on reasonable  
20     request by a beneficiary, the trustee shall provide the beneficiary with a report of information  
21     about the assets, liabilities, receipts, and disbursements of the trust, the acts of the trustee, and the  
22     particulars relating to the administration of the trust relevant to the beneficiary's interest,  
23     including the terms of the trust".

24       8.     California Probate Code section 16062, subdivision (a) provides, in pertinent part,  
25     that "the trustee shall account at least annually, at the termination of the trust, and upon a change  
26     of trustee, to each beneficiary to whom income or principal is required or authorized in the  
27     trustee's discretion to be currently distributed."

28     ///

1           9.     Section 52, title 16, California Code of Regulations provides, in pertinent part, that:

2                 (a) A licensee shall respond to any inquiry by the Board or its appointed  
3 representatives within 30 days. The response shall include making available all files, working  
4 papers and other documents requested.

5                 (b) A licensee shall respond to any subpoena issued by the Board or its executive  
6 officer or the assistant executive officer in the absence of the executive officer within 30 days and  
7 in accordance with the provisions of the Accountancy Act and other applicable laws or  
8 regulations.”

9                 ADMINISTRATION OF THE WORKS FAMILY TRUST DATED JULY 1, 1998

10           10.    On or about July 6, 1998, Respondent Alan D. Shattuck was appointed and  
11 commenced to serve as the Trustee of The Works Family Trust dated July 1, 1998 (the “Trust”).  
12 The Trust provides, in pertinent part, that grantor Katherine S. Works is the life beneficiary of the  
13 income from the Trust and that upon her death, the remaining Trust assets shall provide life  
14 income, from Trust earnings, to Katherine A. Leff and Donald S. Works, her children. Grantor  
15 Katherine S. Works died in or about 2002.

16           11.    On or about November 8, 2007, Donald S. Works filed a Petition *In the Matter of*  
17 *Katherine S. Works, Decedent, Works Family Trust, Dated July 1, 1998*, Marin County Superior  
18 Court Case No. PR 075297 (the “Action”), requesting, *inter alia*, that Respondent be removed as  
19 Trustee of the Trust and that he be appointed as Successor Trustee of the Trust. The Petition  
20 alleged, among other things, that Respondent repeatedly failed to provide a proper accounting of  
21 the Trust to Donald S. Works.

22           12.    On January 7, 2008, an Order was filed in the Action granting the Petition which,  
23 *inter alia*, removed Respondent as Trustee of the Trust, appointed Donald S. Works as Successor  
24 Trustee, and ordered Respondent to provide a full and final account of his administration of the  
25 Trust from July 3, 1998, to the present as required by Probate Code section 16063, and to file said  
26 account before February 7, 2008 (the “Order”). The Order also terminated the Trust and provided  
27 for distribution of the assets of the Trust to beneficiaries Katherine Ann Leff and Donald S.  
28 Works.

13. On March 20, 2009, Donald S. Works made a Complaint to the Board alleging that Respondent, among other things, failed to provide an accounting of his administration of the Trust despite the Order and repeated demands therefor by Trust beneficiary Donald S. Works.

14. By letter dated May 7, 2009, the Board notified Respondent of the Complaint made to the Board by Donald S. Works and requested that Respondent provide a written response to its allegations, including copies of documents and other information pertaining to his administration of the Trust. On or about August 25, 2009, having received no response to the Board's letter of May 7, 2009, Investigative Certified Public Accountant Paul Fisher spoke by telephone with Respondent. When Respondent informed Mr. Fisher that he had not received the letter of May 7, 2009, a copy was sent to him that day by facsimile along with the Board's demand that Respondent provide a written response by September 8, 2009.

15. On or about September 9, 2009, Respondent informed Mr. Fisher that he was having surgery on his arm and requested an extension of time to respond to the Board's letter of May 7, 2009, until September 18, 2009. Respondent's request was granted.

16. On or about September 22, 2009, having received no response to the Board's letter of May 7, 2009, Mr. Fisher spoke with Respondent by telephone. At that time, Respondent informed Mr. Fisher that his response would be sent to the Board on September 23, 2009.

17. On October 29, 2009, having received no response to the Board's letter of May 7, 2009, the Board issued an Subpoena Duces Tecum under Code section 5108 requiring that Respondent produce copies of documents and provide other information described therein to the Board by not later than November 18, 2009. No response to the Subpoena Duces Tecum was given by Respondent.

### FIRST CAUSE FOR DISCIPLINE

(Breach of Fiduciary Duty)

18. The allegations of Paragraphs 1 through 17 are incorporated herein. Respondent is subject to disciplinary action under section 5100, subdivision (i) for unprofessional conduct because he breached his fiduciary duty to Donald S. Works to provide him with an accounting for the Trust, including a report of information about the assets, liabilities, receipts, and

1 disbursements of the Trust as required by Probate Code sections 16062 and 16063, despite  
2 reasonable requests therefor, and as required by the Order.

3 SECOND CAUSE FOR DISCIPLINE

4 (Failure to Respond to Board Investigative Subpoena)

5 19. The allegations of Paragraphs 1 through 17 are incorporated herein. Respondent is  
6 subject to disciplinary action under section 5100, subdivision (g) for unprofessional conduct  
7 because he violated:

8 (a) section 52, subdivision (a), title 16, California Code of Regulations, by failing to  
9 respond or make available the files, working papers and other documents requested by the Board;  
10 and

11 (b) section 52, subdivisions (b) and (d), title 16, California Code of Regulations, by  
12 failing to respond or produce documents and other information demanded by the Subpoena Duces  
13 Tecum served upon Respondent by the Board.

14 THIRD CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct-Violation of Court Order)

16 20. The allegations of Paragraphs 1 through 17 are incorporated herein. Respondent is  
17 subject to disciplinary action under section 5100 for unprofessional conduct because failed to  
18 provide an accounting to Donald S. Works as required by the Order.

19 DISCIPLINARY CONSIDERATIONS

20 21. To determine the degree of discipline, if any, to be imposed on Respondent,  
21 Complainant alleges in aggravation that on or about July 21, 1986, the Board filed an Accusation  
22 in the proceeding entitled *In the Matter of the Accusation Against Alan Douglas Shattuck*,  
23 California Board of Accountancy Case No. 514 alleging that he was grossly negligent in the  
24 practice of accountancy by his failure to conduct an audit. On or about July 27, 1987, the Board's  
25 Decision was effective which, among other things, ordered Respondent's certified public  
26 accountant certificate revoked, with revocation stayed, sixty days suspension of his certificate and  
27 five years probation.

28 ///

22. On or about May 22, 1990, the Board filed an Accusation and Petition to Revoke Probation against Respondent in California Board of Accountancy Case No. 514-1 as a result of Respondent's violation of the conditions of his probation, including the practice of certified public accounting under an expired license, performing an audit in a grossly negligent manner, failing to submit quarterly reports to the Board, failing to appear before the Board's administrative committee and failing to reimburse the Board for costs of investigation and prosecution incurred *In the Matter of the Accusation Against Alan Douglas Shattuck*, California Board of Accountancy Case No. 514. As a result, Respondent's certificate was revoked outright.

23. On or about April 17, 2007, in the case entitled *In the Matter of the Petition for the Reinstatement of the Revoked Certificate of Alan Douglas Shattuck*, California Board of Accountancy Case No. 514-2, the Board granted Respondent's Petition for Reinstatement of Revoked Certificate No. 13898, but restricted his practice to general accounting work and tax work, and prohibited him from performing attestation work as described in Code section 5095.

PRAYER

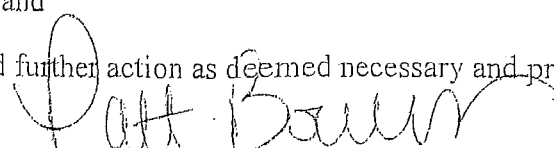
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

A. Revoking, suspending or otherwise imposing discipline upon Certified Public Accountant License No. 13898, issued to Respondent Alan Douglas Shattuck;

B. Ordering Respondent Alan Douglas Shattuck to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107; and

C. Taking such other and further action as deemed necessary and proper.

DATED: November 9, 2010

  
PATTI BOWERS  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

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